

REMARKS

As requested by the examiner, another copy of the Information Disclosure Statement filed on May 18, 2004 is enclosed.

New claims 52-62 are drawn to the subject matter of claims 1-7 and 11-14 of USP 7,038,013. The language of claims 53, 54, 57, 58, 60 and 61 is supported, for example, at page 3, lines 15-22, page 17, lines 12-15 and page 18, line 5 to page 19, line 22. The fragments recited in claims 55 and 62 are supported by the information provided in Figure 2A and at page 33, lines 28-31. The 95% identity language is supported at page 15, lines 12-14. Claims have been canceled merely to save fees.

The undersigned has recently taken over responsibility for this application. Analysis with respect to the filing of a showing under Rule 41.202 is underway. As for the rejection under 35 USC 102(e) over Freeman et al., it is respectfully submitted that this must be withdrawn. Freeman et al. has not properly been established as a reference under 35 USC 102(e). Freeman is a divisional of an application filed on August 23, 2000, i.e., after applicants' parent application's filing date of November 30, 1999. The latter supports the claims of this application. See, e.g., SEQ ID NO: 1 and Fig. 2a in the parent application. But with respect to Freeman's provisional application filed on August 23, 1999, the examiner has failed to satisfy the requirement of 37 CFR 1.104(c)(2) that "the particular part relied on" be designated. Thus, Freeman has not been established as an effective reference under 35 USC 102(e).

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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Date: September 4, 2007